IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION

CRI.REVISION APPLICATION NO. 483 OF 2004

Shri Patel Amrutbhai Purshottam ..Applicant.

V/s.

State of Maharashtra DCB CID,Mumbai ..Respondent

Smt. Teja Katdare for the Applicant.
Shri K.V. Saste, APP for Respondent.

CORAM : A.M.KHANWILKAR, J.
DATED : JANUARY 10, 2005

PC :-

1. Heard learned counsel for the parties. The court below called upon the petitioner to produce the articles which were made over to him upon execution of bond as back as on 31st March, 1990. Instead of returning the said property, the petitioner has come out with novel argument that the articles were possessed by him as an angadia and have been in turn made over to the respondent who was the real owner thereof; Therefore, he is not liable to produce the same. Reliance is placed on the decision of the Apex Court in the case of Sunderbhai Ambalal Desai vs. State of Gujarat (2002) 10 Supreme Court Cases 283, to contend that it is not necessary to insist for production of the articles which have been made over

under the bond because the details of the articles are the matter of record and the trial can proceed on that basis. The above submissions are devoid of merits. It is unfathomable that the person who has taken charge of the property pursuant to the court order and executed a bond as back as on 31st March, 1990 with an undertaking to produce the same as and when called upon, can be allowed to contend that it is not necessary for him nor his legal obligation to produce the same before the court of law even when insisted upon. The argument that the said articles have been made over to the original owner is also unacceptable because, the petitioner had no business to deal with the property in that manner without taking prior permission of the court. If the petitioner is not in a position to recover the articles for being produced in the court in terms of the bond executed by him, then no fault can be found with the order of the lower court, directing forfeiture of the bond amount of Rs. 21 lakhs to the Government of Maharashtra. Reliance placed by the petitioner on the reported decision referred to above is wholly inapposite. That decision is not an authority on the point that the trial court has no discretion to call upon the holder of the property under the bond given to the court to produce

the same as and when required for the purpose of the trial. It would have been a different matter if the articles were with the petitioner and that he was willing to produce the articles but not part possession thereof. Taking any view of the matter, the petition is wholly misconceived. Hence dismissed.

.....